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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
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Summary record of the 273rd meeting
Held at the Palais des Nations, Geneva, on Monday, 13 April 2015, at 3 p.m.

Chairperson: Mr. Carrión Mena

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The meeting was called to order at 3.25 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Kyrgyzstan (CMW/C/KGZ/1; CMW/C/KGZ/QPR/1)

1. *At the invitation of the Chairperson, the delegation of Kyrgyzstan took places at the Committee table.*

2. **Ms. Iskakova** (Kyrgyzstan), introducing her country's initial report, said that Kyrgyzstan was in the process of implementing two important programmes on labour migration: the national employment promotion and international labour migration regulation programme through 2020, and the programme to combat trafficking in persons in the Kyrgyz Republic, 2013–2016. Foreign nationals, including migrant workers, enjoyed the same rights as Kyrgyz nationals, under the Constitution and international agreements, the only exceptions being voting rights and mandatory military service. The Constitution provided for all the rights listed in the Convention including, the right to freedom of association, to strike, to freedom of labour, and to rest. Everyone had the right to free basic general and secondary education from State educational institutions. Men and women had equal rights and freedoms, as well as equal opportunities to enjoy them. In addition, the right of Kyrgyz nationals to return freely to their homeland was not restricted in any way. Human rights and freedoms could be restricted under the Constitution and laws only in the interests of national security, public order, public health and morals, and the rights and freedoms of other individuals. Slavery, human trafficking, forced labour and child labour were prohibited. Everyone had the right to freedom of movement, the freedom to travel beyond the borders of Kyrgyzstan, and the freedom to apply to international human rights bodies when their rights and freedoms were violated. If human rights bodies acknowledged such violations, Kyrgyzstan would take measures to restore them or offer reparation for any harm caused.

3. National State policy on international labour migration was in keeping with international human rights law and standards for the social protection of migrant workers, and national interests vis-à-vis international labour migration measures. Under a law establishing a visa exemption scheme for nationals of certain States, Kyrgyzstan had introduced a visa exemption scheme for up to 60 days for nationals of 44 States. There was a quota system regulating the number of foreign workers in Kyrgyzstan; the quota was set each year by the Government depending on State interests and the internal labour market situation. The Ministry of Labour, Migration and Youth divided the quota between employers seeking foreign labour and stateless persons, according to their contribution to the national economy. Over 90 per cent of the quota of 12,990 foreign workers established for 2014 had been filled, which was an increase of over 14.5 per cent on the figures for 2013. Furthermore, certificates had been issued to a number of foreign construction site managers, exempting them from the need for a work permit.

4. Over 50 per cent of foreign workers in Kyrgyzstan were employed in Bishkek with the rest working in other provinces, attesting to the efforts made by local bodies to allow foreign nationals to work in the country. A quota for foreign private entrepreneurs had been set for 2014 and the majority of such persons had worked in the capital. In terms of the job sectors in which foreign nationals had been employed in 2014, over 50 per cent had worked in industry and construction, and the rest in such areas as communications, transport, energy, education, health and agriculture and private enterprise. With regard to the country of origin of foreign workers, more than 70 nationalities were represented and there had been an increase in persons arriving from China and Turkey, in addition to countries of the Commonwealth of Independent States.

5. Migrant workers and members of their families had unlimited access to health-care, education, and social welfare services. Moreover, taxation of migrant workers was the same as for Kyrgyz nationals, whereas social security payments were lower for as migrant workers than for Kyrgyz nationals. Ethnic Kyrgyz returning to their country of origin for political and economic reasons from neighbouring countries were also considered as migrant workers. The State offered favourable conditions to help such persons resettle in Kyrgyzstan, allowing them to work without a permit and simplifying the process for acquiring citizenship, resulting in over 40,000 ethnic Kyrgyz taking citizenship between 1994 and 2014. A small number of other foreign nationals also acquired permanent residence permits each year. The permits were valid for five years and could be extended. Furthermore, Kyrgyzstan also received refugees, who were mainly from Afghanistan.

6. Kyrgyzstan was committed to protecting the rights of Kyrgyz nationals working abroad. The majority of such persons were working in the member States of the Eurasian Economic Union (EAEU), particularly in the Russian Federation and Kazakhstan. The efforts undertaken by Kyrgyzstan to join the Union would significantly facilitate the procedures for Kyrgyz migrant workers to live and work in the above-mentioned countries. For example, under the Treaty on the Eurasian Economic Union, employers could hire migrant workers irrespective of fixed labour quotas, migrant workers did not need work permits for EAEU member States, and their period of residence was determined by the length of the work contract concluded with their employer.

7. The unemployment rate in Kyrgyzstan stood at just over 8 per cent. Over 40 per cent of the unemployed were young persons. In 2014, employment services had helped to find employment for almost 50,000 persons, which was an increase on the figures from the previous year. Young persons accounted for over 40 per cent of that number. Moreover, foreign nationals were entitled to use State employment services.

8. **Mr. Brillantes** said that the State party's efforts to protect the rights of migrant workers were noteworthy, particularly given that Kyrgyzstan had close ties to the Russian Federation and Kazakhstan, neither of which was party to the Convention. However, there were still areas of concern. For instance, during the universal periodic review (UPR) of Kyrgyzstan it had been observed that migrant children or children born of migrants were not necessarily registered by the State, which could lead to a violation of their educational rights. The UPR had also drawn attention to the phenomenon of "social orphans", i.e. children whose parents had migrated without them for economic reasons, leaving such children in a vulnerable position.

9. With regard to women, he noted the concern of the Committee on the Elimination of All Forms of Discrimination against Women about the high number of migrant women working in the informal sector but with no labour law enforced to protect them. There was also an absence of legislation to enforce equal pay and prohibit the sexual harassment of female workers. Furthermore, the State party had not ratified the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189), and the situation regarding maternity leave was unclear. The Committee against Torture had also raised the issue of bride-kidnapping, which was a widespread cultural practice in the State party; he wished to know whether Kyrgyz migrant workers, or even foreign nationals in Kyrgyzstan, were affected by the practice.

10. He asked how the numerous International Organization for Migration projects were benefiting the State party, and why migrant workers of Uzbek ethnicity were not being protected both outside Kyrgyzstan and on their return to the State party. As for outsourcing, it could lead to the violation of rights because migrant workers were officially beholden to the outsourcing company and not to the company where they carried out their duties, meaning that the latter had no contractual obligations towards its employees. Moreover, he wished to know what steps were being taken to combat the rise in xenophobia and hate

crime against Kyrgyz nationals in the Russian Federation and whether the State party had demanded that the Russian Federation improve the detention conditions of foreign nationals, and provide free legal assistance for detainees. He sought an explanation as to why training programmes and measures to disseminate the Convention had not been carried out by the State party.

11. He suggested that if migrant workers found themselves in conflict with the law, it would be more useful for the State party to notify the relevant diplomatic or consular mission rather than the foreigners themselves. He would welcome clarification on specific legislation and international agreements adopted regarding the provision of urgent medical care for all persons regardless of nationality. He asked whether certain unions prohibited the membership of foreign workers, when the declarations under articles 76 and 77 of the Convention were going to be made, and exactly which body would be responsible for the declarations. He asked how minors, particularly those in an irregular situation, were able to return to their country of origin. He enquired what the prospects were of Kyrgyzstan concluding bilateral agreements with such countries as the Russian Federation, Kazakhstan, and Azerbaijan. Finally, he asked whether the delegation might wish to comment on the 29 recommendations listed in an alternative report by NGOs and on whether the State party had been aware of the recommendations during its consultations with NGOs and civil society.

12. **Mr. Taghizadeh** asked whether the provisions of the Convention were widely applied in Kyrgyzstan and to what extent its legislation provided guidance for judges on those provisions. He asked whether steps were being taken to remedy the contradiction between the definition of a migrant worker in the Convention, which did not distinguish among migrant workers on the basis of their legal status, and the definition of a migrant worker in Kyrgyz legislation, which drew such a distinction. It was difficult to discuss the protection of the rights of migrant workers until that contradiction had been resolved.

13. He wished to know how the State party would continue to fulfil its obligations towards migrant workers under the Convention in the new legal context following its planned entry to the Eurasian Economic Union in May 2015. It was important that migrants and members of their families and administrative bodies in the State party had a clear understanding of the rights under the Convention. In order to ensure the broad application of the instrument, the State party should devise a plan to explain its provisions to legal and judicial officials, officials at the Ministry of Labour and other professionals who dealt with migration issues, including at the local level.

14. The statistical data provided in the State party's initial report was not sufficiently detailed. Data on incoming, outgoing and transiting migrants should be disaggregated by sex, age and profession. Information on Kyrgyz migrants detained in other countries should include the reasons why migrants were detained and the types of offences committed.

15. **Mr. El-Borai** said that the legal framework in Kyrgyzstan was such that it was difficult to establish whether Kyrgyz legislation was compatible with the Convention. He asked for clarification of the legal status of a ratified treaty in the State party.

16. **Mr. Kariyawasam** asked whether the regional phenomenon of drug trafficking, for which Kyrgyzstan was a transit country, involved migrant workers and, if so, what steps were being taken to address that problem. Given the range of ethnic groups in Kyrgyzstan, he would welcome information on the ethnic origin of Kyrgyz migrant workers. He wished to know whether Kyrgyz migrants settled in their countries of destination or returned to Kyrgyzstan. While applauding the fact that Kyrgyz migrant workers residing abroad were able to vote in Kyrgyz elections, he wondered whether there was any connection between migrant workers' ethnic origin and their low levels of electoral participation.

17. **Mr. Haque** asked how the significant numbers of migrants entering and leaving Kyrgyzstan and national demographic trends impacted on the implementation of the Convention, in particular how the State party balanced the need to ensure the rights of both Kyrgyz migrant workers abroad and migrant workers living in Kyrgyzstan. He would welcome information on how entrepreneurs and highly skilled migrants who came to Kyrgyzstan contributed to the Kyrgyz economy and how remittances to Kyrgyzstan were managed. Were special measures in place to ensure that families were able to make the best possible use of remittances? He wished to know whether there were any foreign nationals in an irregular situation in Kyrgyzstan and how such cases were handled. He would also welcome information on the impact of trafficking in persons in the State party. Given the long border that Kyrgyzstan shared with China, he wished to know more about the flow of migrants between the two countries and the impact of those migratory flows, particularly since China was not a party to the Convention.

18. **Mr. Ceriani Cernadas** said that he would welcome more information on the policies of the Ministry of Labour, Migration and Youth and on whether it was conducting research into the causes of labour migration from Kyrgyzstan. The delegation should explain the reasons for the high rates of unemployment in certain parts of the country. The delegation should also provide information on the protection available to migrant workers who wished to travel to Kyrgyzstan and explain how policies on access to health and education for migrant workers and their families were coordinated at the institutional level.

19. He asked how the current quota system met the needs of migrant workers coming to Kyrgyzstan; how it dealt with migrants in an irregular situation; how it responded to migratory flows; and how it addressed the situation of migrants in both the formal and informal sectors. In the light of reports received about violent attacks on Chinese migrants in Kyrgyzstan, he wished to know what steps were being taken to combat xenophobia and highlighted the need for awareness-raising campaigns to accompany the implementation of regional agreements on labour mobility.

20. He wished to know what measures were in place to protect the children of migrant workers who remained in Kyrgyzstan while their parents worked abroad, and what protection was given to children who remained abroad, most commonly in the Russian Federation, when a migrant worker parent was repatriated to Kyrgyzstan. Referring to information available about the high rates of maternal mortality among female migrant workers in Kyrgyzstan, he asked whether that situation had changed.

21. **Ms. Ladjel** said that she would welcome more information concerning the general impact of the Convention on migration in Kyrgyzstan, and in particular on its economic development. She asked how high unemployment among young people in Kyrgyzstan affected migratory flows and how the youth labour force was used in Kyrgyzstan. In that connection, it would be useful to have more information on the quotas established for migrants. Referring to the relationship between the Migrant Workers Convention, the Convention on the Rights of the Child and the Beijing Declaration and Platform for Action, she expressed concern about the phenomena of trafficking in persons and "social orphans". It would be interesting to hear the delegation's views on such matters and on their connection with progress made in women's empowerment and the protection of children in general.

22. **Mr. Nuñez-Melgar Maguiña** said that it would be useful to have more information on the situation of cross-border workers and their status in Kyrgyzstan. He asked how private intermediary agencies used by migrants were regulated and, given the high number of Kyrgyz workers in the Russian Federation, whether there was an agreement with the Russian Federation on regulating employment agencies. He wished to know: whether consulates provided adequate assistance to seasonal workers facing expulsion; how the rights of seasonal workers were safeguarded; and whether mechanisms were in place to

help seasonal migrant workers to get back into the labour market on their return to Kyrgyzstan.

23. **Mr. Tall** said that the State party's report should have been more detailed. More information was required on the implementation of the Convention in practice and specific obstacles thereto, as well as on the typical problems faced by migrant workers in Kyrgyzstan and Kyrgyz migrant workers abroad. He wondered whether the lack of information provided by the State party meant that there were no obstacles to its implementation. He asked whether the police, judiciary and social workers were sufficiently familiar with the Convention.

24. With reference to paragraphs 14 and 15 of the report, he asked what the rationale had been for the agreement between Kyrgyzstan and the Russian Federation to set up a system for labour migration and what action had been taken in that regard. He said that he would appreciate information on specific measures that might lead to ratification of the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the Domestic Workers Convention, 2011 (No. 189).

25. He asked where migrants were detained for administrative offences, such as possessing irregular or expired papers. Since there were no specific detention facilities for migrants in Kyrgyzstan, he wondered whether they were held alongside detainees who had committed criminal offences. He asked in what circumstances migrants had access to legal assistance, including free assistance from a lawyer. Information should be provided on how foreign nationals who were in Kyrgyzstan temporarily could access health care.

26. **Mr. Pime** said that the Committee had received reports that migrant workers and members of their families suffered discrimination in the areas of employment, health and education in Kyrgyzstan. He invited the delegation to comment on those reports and asked what measures had been adopted to remedy the situation. He wished to know whether the privileges accorded to ethnic Kyrgyz migrant workers might be considered as discrimination.

27. **Ms. Castellanos Delgado** asked what rights, assistance and protection were granted to child migrants from Kyrgyzstan, whether they were helped to return to the country and what conditions they experienced on their return.

28. **The Chairperson**, speaking as a member of the Committee, asked what efforts had been made to ensure that citizens abroad could vote and to generate more reliable statistics, thus permitting more effective compliance with the Convention. He asked whether there was a policy that allowed better use to be made of remittances so as to benefit the Kyrgyz economy and how corruption affected compliance with the Convention. Lastly, he wished to know whether the State party had signed multilateral or bilateral treaties regarding migration.

The meeting was suspended at 4.50 p.m. and resumed at 5.35 p.m.

29. **Ms. Toktalieva** (Kyrgyzstan) said that providing assistance to Kyrgyz migrant workers was a priority for the country's consular services, particularly in the Russian Federation, which was home to around half a million Kyrgyz migrant workers of a total of more than 700,000. The State party's planned entry into the Eurasian Economic Union would represent a new phase in efforts to assist Kyrgyz migrant workers in the Russian Federation. She provided statistical data on the number of Kyrgyz migrant workers who had been charged with various criminal offences in the Russian Federation, noting that the majority were men. When Kyrgyz citizens died abroad, the Kyrgyz authorities took charge of all relevant procedures, including repatriating their remains and processing the necessary documentation. The conditions in detention centres where Kyrgyz migrant workers were

held were not always satisfactory, and Kyrgyz consular officials often visited those centres to provide assistance to Kyrgyz citizens.

30. Kyrgyz citizens working in the Russian Federation could follow a simplified procedure to apply for Russian citizenship; to date, approximately 4,500 persons had done so, while 75,000 had received a work permit. Statistics on migration to the Russian Federation disaggregated by gender and age indicated that the majority of Kyrgyz migrant workers were men aged between 30 and 39 and women aged between 18 and 29.

31. Efforts to protect the rights and interests of Kyrgyz citizens abroad were pursued by consular officials, who dealt with complaints from Kyrgyz citizens with assistance from representatives of the Ministry of Internal Affairs. More consular and Ministry of Internal Affairs offices had recently been opened in the Russian Federation. A number of draft bilateral agreements on a range of aspects concerning labour migration were being considered, including consular conventions with Italy and the United Arab Emirates, agreements on the transfer of prisoners and agreements on the legal status of the Kyrgyz Ministry of Labour, Migration and Youth in the Russian Federation. Additionally, there were two main migration agreements within the Eurasian Economic Union: one addressing the legal status of migrants and their families and the other providing for cooperation in combating illegal migration.

32. Citizens were assisted in finding employment in neighbouring countries and further afield by a centre that provided information and advice. In addition, the centre monitored the migration flow to the Russian Federation, with which Kyrgyzstan had reached an agreement regarding the employment of Kyrgyz citizens in State and private entities in different sectors. Although the conditions of those migrant workers varied, generally speaking, they had contracts that guaranteed decent conditions and reduced the risk of violations of their rights. Similar agreements were also being made with Kazakhstan prior to the State party's entry into the Eurasian Economic Union.

33. While xenophobia remained a cause for concern, the number of cases was falling. State policy on international labour migration was based on a commitment to international human rights law and standards for the social protection of migrant workers, in line with national interests. Studies conducted into labour migration indicated that it was often seasonal and that most Kyrgyz migrant workers migrated to the Russian Federation and Kazakhstan. Kyrgyz migrants working in the Russian Federation were the most vulnerable group of migrant workers and consistently exceeded the quota set by that country. The current system used by the Russian Federation for granting work permits should improve following the State party's entry into the Eurasian Economic Union.

34. While labour migration had a positive impact on Kyrgyzstan, for example by considerably reducing unemployment rates and generating income for the country through remittances, there were also disadvantages in terms of demographic imbalances, the loss of highly qualified workers and adverse effects on the family unit. There had been cases where the children of migrant workers had been abandoned in the Russian Federation; the Ministry of Social Development was working to ensure that no Kyrgyz child was left behind, and some children had been taken into care.

The meeting rose at 6 p.m.